

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA**

**FILED**

**JAN 11 2018**

Clerk, U.S. District Court  
District Of Montana  
Helena

**HELENA DIVISION**

In the Matter of Genet McCann,  
An Attorney-at-Law,  
Respondent.

No. CV 18-02-H-SEH

In the Matter of Genet McCann,  
An Attorney-at-Law,  
Respondent.

No. CV 18-03-H-SEH

**ORDER**

The following documents have been filed in this Court on or after January 10, 2018:

1. Respondent's Notice of Civil Rights Removal from the Commission on Practice of the Supreme Court of the State of Montana No. PR 17-0670; ODC 17-110 Pursuant to 28 U.S.C. § 1443(1).<sup>1</sup>
2. Respondent's Notice of Civil Rights Removal from the Commission on Practice of the Supreme Court of the State of Montana No. PR 16-0635; ODC

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<sup>1</sup> No. CV 18-02-H-SEH, Docs. 1, 1-1, 1-2, 1-3, 1-4, 1-5, 1-6, and 1-7.

15-078 Pursuant to 28 U.S.C. § 1443(1).<sup>2</sup>

3. The Office of Disciplinary Counsel for the State of Montana's Motion  
For Remand, filed on January 10, 2018, at 5:57 p.m.<sup>3</sup>

4. The Office of Disciplinary Counsel for the State of Montana's Brief  
in Support of Motion for Remand, filed on January 10, 2018, at 6:01 p.m.<sup>4</sup>

5. The Office of Disciplinary Counsel for the State of Montana's Motion  
For Remand, filed on January 10, 2018, at 6:03 p.m.<sup>5</sup>

6. The Office of Disciplinary Counsel for the State of Montana's Brief  
in Support of Motion for Remand, filed on January 10, 2018, at 6:07 p.m.<sup>6</sup>

Genet McCann did not appear for the show cause proceedings in *In the Matter of Genet McCann*, Montana Supreme Court Case No. PR 17-0670, set for 8:30 a.m., January 11, 2018, or for the formal disciplinary proceedings in *In the Matter of Genet McCann*, Montana Supreme Court Case No. PR 16-0635, set for 9:00 a.m., January 11, 2018. Those proceedings did not proceed as scheduled or at all and were not held.

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<sup>2</sup> No. CV 18-03-H-SEH, Docs. 1, 1-1, 1-2, 1-3, 1-4, 1-5, 1-6, 1-7, 1-8, and 1-9.

<sup>3</sup> No. CV 18-02-H-SEH, Doc. 4.

<sup>4</sup> No. CV 18-02-H-SEH, Doc. 5.

<sup>5</sup> No. CV 18-03-H-SEH, Doc. 3.

<sup>6</sup> No. CV 18-03-H-SEH, Doc. 4.

Notwithstanding any provisions of the Federal Rules of Civil Procedure or the Local Rules of Procedure for the United States District Court for the District of Montana to the contrary, the Court has determined that exigencies of the pending issues mandate that the Court address and rule upon the Motions to Remand<sup>7</sup> forthwith without any or further delay.

Actions taken to remove Montana Supreme Court Case No. PR 17-0670 and Montana Supreme Court Case No. PR 16-0635 were not proper. Respondent has wholly failed and refused to accept (1) that disciplinary proceedings are *sui generis* and are neither civil or criminal in character; (2) that the Montana Supreme Court has jurisdiction over matters related to discipline of lawyers licensed to practice in Montana; (3) that such matters are beyond and outside the jurisdiction of this Court; and (4) that such matters are not subject to removal to federal court.<sup>8</sup>

ORDERED:

1. Cause No. CV 18-02-H-SEH and Cause No. CV 18-03-H-SEH are DISMISSED.

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<sup>7</sup> No. CV 18-02-H-SEH, Doc. 4; No. CV 18-03-H-SEH, Doc. 3.

<sup>8</sup> *Neal v. Wilson*, 112 F.3d 351, 355 (8th Cir. 1997); *see also Bar Ass'n of Baltimore City v. Posner*, 391 F. Supp. 76, 79-80 (D. Md. 1975).

2. The Court will set a hearing on the Office of Disciplinary Counsel for the State of Montana's request for attorney fees and costs by separate order.

3. The clerk is directed to effect service of this Order (1) by the court's electronic filing system and by mail on Michael W. Cotter, Chief Disciplinary Counsel, Office of Disciplinary Counsel, 24 West 6th Avenue, 5th Floor, P.O. Box 1099, Helena, MT, 59624; (2) upon Genet McCann, Avalon Law LLC, P.O. Box 160492, Big Sky, MT, 59617, by mail and by personal service by the United States Marshal's Service; (3) upon Ward E. Taleff, Chair of the Montana Supreme Court Commission on Practice, 300 River Drive N., Suite 5, P.O. Box 609, Great Falls, MT, 59403, by mail and by personal service by the United States Marshal's Service; and (4) upon Ed Smith, Clerk of the Montana Supreme Court, Room 323, Justice Building, 215 N. Sanders, P.O. Box 203003, Helena, MT, 59620, by mail and by personal service by the United States Marshal's Service.

DATED this 11<sup>th</sup> day of January, 2018.



SAM E. HADDON  
United States District Judge